

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF KINGS CRIMINAL TERM PART 19

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4 THE PEOPLE OF THE STATE OF NEW YORK,

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-against- Indict. No. [REDACTED]  
Proceedings

DEFENDANT.

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Supreme Courthouse  
(Proceedings via Teams)  
Brooklyn, New York 11201  
May 17, 2021

B E F O R E :

THE HONORABLE DANNY K. CHUN  
Justice, Supreme Court

A P P E A R A N C E S :

OFFICE OF LETITIA JAMES  
NEW YORK STATE ATTORNEY GENERAL  
For the People  
28 Liberty Jay Street  
New York, New York 10005  
BY: STEPHANIE SWENTON, ESQ.  
BY: JOSEPH D'ARRIGO, ESQ.  
BY: CAREY SPITALNICK, ESQ.

DAVID WIKSTROM, ESQ.  
Attorney for the Defendant  
26 Broadway  
New York, New York 10004

SUSAN K. LYNCH  
Official Court Reporter

## Proceedings

1 THE CLERK: Calling number [REDACTED]  
2 [REDACTED], Indictment No. [REDACTED], [REDACTED]  
3 Counsel, appearances, please.

4 THE DEFENDANT: Present.

5 MS. SWENTON: For the Office of the New York  
6 State Attorney General, Stephanie Swenton.

7 Good morning, your Honor.

8 THE COURT: Good morning.

9 MR. D'ARRIGO: Joseph D'Arrigo for the New York  
10 State Office of the Attorney General.

11 Good morning, your Honor.

12 THE COURT: Good morning.

13 MS. SPITALNICK: Carey Spitnalick for the Office  
14 of the Attorney General as well.

15 Good morning.

16 THE COURT: Good morning.

17 MR. WIKSTROM: Good morning, your Honor. This  
18 is David Wikstrom for [REDACTED] and he is on the line by  
19 audio.

20 THE COURT: He's not able to join by video  
21 today?

22 MR. WIKSTROM: He said he's not able to get it  
23 running on his iPad, but he is listening in by phone.

24 THE DEFENDANT: Yes, I'm present.

25 THE COURT: [REDACTED], can you hear me?

## Proceedings

1 THE DEFENDANT: Yes, I can hear you, Judge.

2 THE COURT: Next time, you're going to have to  
3 either log on with video or appear in person, you  
4 understand?

5 THE DEFENDANT: Yes.

6 THE COURT: Are we able to pick a trial date  
7 today?

8 MS. SWENTON: Your Honor, at this time the  
9 People have an application which we would like to make a  
10 record of at this time.

11 The People, at this time, are moving to dismiss  
12 all charges against [REDACTED] in light of the Bureau's  
13 recent discovery of Giglio material related to former  
14 Attorney General Detective Investigator Severino Concordia  
15 who was the primary undercover officer in this case.

16 His testimony, including his interactions with  
17 [REDACTED], [REDACTED] and [REDACTED]  
18 is critical and essential in the case. In particular to  
19 the unauthorized practice of medicine and insurance fraud  
20 counts.

21 On May 3, 2021 during the course of an inquiry  
22 related to any prior disciplinary actions, we learned that  
23 while employed by the New York City Police Department,  
24 former Detective Concordia was disciplined and demoted for  
25 a pattern of false overtime submissions.

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1           In light of this significant credibility issue  
2           and the former detective's role as a key witness at trial,  
3           as well as the nature of the charges, we feel that in the  
4           interest of justice, it strongly favors dismissal of the  
5           pending charges against [REDACTED].

6           We have no reason to believe that there was any  
7           misconduct in this case, as demonstrated by the audio and  
8           video recordings of all of the undercover operations.  
9           However, the Attorney General's office, in good faith,  
10          does not wish to proceed on charges that rely so heavily  
11          on the testimony of this former OAG investigator as an  
12          undercover officer. In particular, the counts of  
13          unauthorized practice of medicine and insurance fraud.

14          Accordingly, in spite of the independent  
15          substantial and credible evidence of [REDACTED]'s guilt  
16          of the crimes charged, we are moving to dismiss these  
17          charges in the interest of justice.

18          The People will be further seeking to vacate the  
19          prior convictions of co-defendants [REDACTED],  
20          [REDACTED] and [REDACTED] in this matter  
21          although all three defendants pleaded guilty, admitted  
22          their conduct and waived their right to appeal, because  
23          this former detective was similarly a key witness in their  
24          prosecutions, to achieve consistent outcomes for the  
25          defendants in this case and in the interest of justice, we

## Proceedings

1 will be consenting to vacatur of their convictions as well  
2 and we will be contacting defense counsel, and with  
3 permission of the Court, will consent to motions by the  
4 defense to recalendar those matters for purposes of  
5 vacating their prior pleas and dismissing the charges.

6 THE COURT: Just to complete the record and for  
7 my benefit as well, nothing that was turned up is any  
8 evidence that would tend to exculpate this defendant or  
9 any of the other defendants who pleaded guilty previously;  
10 is that correct?

11 MS. SWENTON: That is correct. That is correct.  
12 It is Giglio, as to say impeachment material for the  
13 undercover officer related to a prior disciplinary action,  
14 but not exculpatory.

15 THE COURT: And when was that discovered?

16 MS. SWENTON: On May 3, 2021 during the course  
17 of an interview to ascertain any prior disciplinary  
18 actions.

19 THE COURT: So earlier this month.

20 MS. SWENTON: Correct.

21 THE COURT: So People have promptly indicated it  
22 to the Court and to the defense that in the interest of  
23 justice that would be the right thing to move to dismiss.

24 So, Counsel, you join in the application?

25 MR. WIKSTROM: Yes, I do, your Honor.

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1 THE COURT: All right. Indictment is dismissed  
2 and sealed as to [REDACTED]. This is [REDACTED]  
3 Thank you.

4 MS. SWENTON: Thank you, your Honor.

5 MR. D'ARRIGO: Thank you, your Honor.

6 \* \* \*

7 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPTION OF THE  
8 ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS PROCEEDING.

9 Susan Lynch

10 SUSAN K. LYNCH

11 OFFICIAL COURT REPORTER  
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